

## REMARKS

### A. Background

Claims 1-19 were pending in the application at the time of the Office Action. Claims 1, and 4-19 were rejected as being obvious over cited art. Claims 2 and 3 were deemed to contain allowable subject matter, but objected to as depending from rejected claims. By this response applicant has cancelled claim 2 and amended claims 1, 3, 5, 12, and 13. As such, claims 1 and 3-19 are presented for the Examiner's consideration in light of the following remarks.

### B. Proposed Claim Amendments

Applicant has herein amended claims 1, 3, 5, 12, and 13 to further clarify, more clearly define, and/or broaden the claimed inventions to expedite receiving a notice of allowance. For example, the method of claim 1 has been amended to incorporate all of the method steps previously recited in claim 2, which previously depended from claim 1. Claims 12 and 13 have been amended to recite means for performing the method steps previously recited in claim 2. Claims 3 and 5 have been amended to reflect the cancellation of claim 2.

The amendments to the claims are supported throughout the specification and by prior claim language. In view of the foregoing, applicant submits that the amendments to the claims do not introduce new matter and entry thereof is respectfully requested.

### C. Allowable Subject Matter

Page 14 of the Office Action objects to claims 2 and 3 as being dependent upon a rejected base claim, but states that claims 2 and 3 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, as noted above, independent claim 1 has been amended to incorporate the limitations previously recited in claim 2. As such, claim 1 is now in condition for allowance.

### D. Rejection based on 35 U.S.C. § 103

Pages 2-11 reject claims 1, 4-7, 11-15 and 19 under 35 USC § 103(a) as being obvious over U.S. Patent No. 6,980,738 to Frankel et al. ("*Frankel*") in view of an article by Kwang et al. entitled "Temperature dependence of chromatic dispersion in dispersion-shifted fibers: Experiment and analysis" ("*Kwang*"). Pages 11-14 reject claims 8-10 and 16-18 as being

obvious over the *Frankel/Kwang* combination in view of further cited art. Of the rejected claims, claims 1, 12, and 13 are independent claims.

As noted above, independent claim 1 has been amended herein to incorporate the limitations of claim 2, which was deemed in the Office Action to contain allowable subject matter. Accordingly, claim 1 is now in allowable condition. Also as noted above, independent claims 12 and 13 have been amended to incorporate means for performing the limitations recited in prior claim 2. As such, Applicant submits that independent claims 12 and 13 are also in allowable condition for substantially the same reasons that claim 2 was deemed to contain allowable subject matter in the Office Action.

Claims 3-11 and 14-19 variously depend from claims 1, 12, and 13 and thus incorporate the limitations thereof. As such, applicant submits that claims 3-11 and 14-19 are in allowable condition by virtue of their dependence from claims 1, 12, and 13.

No other objections or rejections are set forth in the Office Action.

#### E. Conclusion

Applicant notes that this response does not discuss every reason why the claims of the present application are distinguished over the cited art. Most notably, applicant submits that many if not all of the dependent claims are independently distinguishable over the cited art. Applicant has merely submitted those arguments which it considers sufficient to clearly distinguish the claims over the cited art.

In view of the foregoing, applicant respectfully requests the Examiner's reconsideration and allowance of claims 1 and 3-19 as amended and presented herein.

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Dated this 24th day of September 2009.

Respectfully submitted,

/Scott A. Woodbury/ Reg. #55743

SCOTT A. WOODBURY

Registration No. 55,743

DANA L. TANGREN

Registration No. 37,246

Attorneys for Applicant

Customer No. 022913

Telephone No. 801.533.9800

SAW:cad

2473737\_1